

REMARKS

Claim 9 was inadvertently omitted from the original claims. Claim 10 has been renumbered to Claim 9, and all of the claims subsequent to Claim 10 have been consecutively renumbered.

Claim 2 has been objected to by the Examiner. In response thereto, Claim 2 has been amended, as suggested by the Examiner.

The Examiner has rejected original Claims 7 and 36, under 35 U.S.C. § 112, second paragraph, as being indefinite. With the entry of this Amendment, Claim 7 and Claim 35 (previously Claim 36) have been amended to comply with the requirements of 35 U.S.C. § 112.

Independent Claims 1 and 33

The Examiner has rejected Claim 1 and Claim 34 (renumbered as Claim 33) under 35 U.S.C. § 103(a) as being anticipated by Biggs et al. U.S. Patent No. 6,599,311. Also, Claims 2-7, 31-33, 35, and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Biggs et al. reference in view of Jarvis International Publication No. WO 00/28902. Claims 8, 10-15, 28-30, and 37-39 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Biggs et al. reference in view of the Jarvis reference and Bolduc et al. U.S. Patent No. 5,824,008. Applicants respectfully traverse these rejections for the following reasons.

The present invention, as recited in original independent Claim 1, relates to a device for anchoring a suture used in a surgical procedure to a coiled helical member. The

device includes winding means for **winding** a suture **around** the helical member **in a helical path** such that the suture is **attached** to at least one turn of the helical member.

None of the cited references teaches or suggests the claimed invention. For example, the primary reference (i.e., the Biggs et al. reference) teaches an assembly for reducing the volume of the lung. The assembly includes a plurality of anchors, each of which is attached to one end of a corresponding cord. A connection device is connected to the cords and allows the cords to be pulled in one direction. When the cords are pulled, the anchors move in the same direction so as to compress the lung tissue. The connection device can be in the form of a spring that has a plurality of turns through which a cord is woven when the spring is expanded. When the spring moves to its natural, compressed state, the spring prevents the movement of the cord in order to maintain the compression of the lung tissue.

While the cord disclosed in the Biggs et al. reference passes over the turns of the spring, unlike the present invention, the cord tangentially passes over each turn (alternatingly passing over the inner surface and outer surface of adjacent coils). This can be seen with reference to FIGS. 42A and 42B of the Biggs et al. reference, viz., starting from the bottom, the cord 384 passes over the outer surface of the first turn of the spring 382, threads through the space between the first and second turns, and then passes over the inner surface of the second turn of the spring 382. This pattern is repeated as the cord 384 passes over the remaining turns of the spring 382.

The Biggs et al. reference does not teach or suggest the concept of winding a suture around a helical member in a helical path. More particularly, whereas the cord

disclosed in the Biggs et al. reference passes over only **one** surface (the outer or inner surface) of each turn of the spring, the suture of the present invention is **wound around** the helical member **in a helical path** such that the suture is **attached** to at least one turn of the coiled member, as recited in Claim 1, thereby contacting both inner and outer surfaces. Because the cord 384 disclosed in the Biggs et al. reference merely **passes** over the turns of the spring 382, it is necessary for the spring 382 to assume a compressed state in order to grasp the cord 384.

In view of the distinctions discussed above, it is respectfully submitted that the Biggs et al. reference fails to disclose or suggest a device recited in original Claim 1 of the present application (i.e., a device including winding means for **winding** the suture **around** the helical member **in a helical path** such that the suture is attached to at least one turn of the coiled member). Accordingly, applicants' attorney respectfully submits that the device recited in original Claim 1 is patentably distinguishable from the device disclosed in the Biggs et al. reference.

Because Claims 2-32 depend from original independent Claim 1, they recite subject matter which distinguishes patentably over the Biggs et al. reference. Nevertheless, applicants' attorney notes that the dependent claims recite additional novel features of the present invention. For instance, Claim 12 recites two spiral members (i.e., the coiled spiral member and the helical member), whereas the Jervis reference discloses only one spiral member.

With respect to the secondary references relied in the Office Action by the Examiner (the Jervis and Bolduc et al. references), applicants' attorney respectfully

submits that neither of them, whether considered individually or in combination with the Biggs et al. reference, anticipates or makes obvious the present invention as defined in independent Claim 1. For instance, neither of these secondary references discloses a device including winding means for **winding** the suture **around** the helical member **in a helical path** such that the suture is attached to at least one turn of the coiled member, as recited in Claim 1.

Independent Claim 33 relates to a device for anchoring a cord used in a surgical procedure to a coiled helical member. The device includes winding means for **winding** a cord **around** the helical member **in a helical path** such that the cord is attached to at least one turn of the helical member. In such circumstances, independent Claim 33 is also patentably distinguishable over the references cited in the Office Action for at least the reasons discussed above. Accordingly, it is respectfully submitted that Claim 33 is in condition for allowance, along with all of the claims depending therefrom (i.e., Claims 34-38).

Independent Claim 39

Claims 40-42 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Biggs et al. reference in view of the Bolduc et al. reference. Applicants respectfully traverse this rejection for the following reasons.

- Application No. 10/648,494
- Amendment dated: November 1, 2006
- Reply to Office Action mailed August 1, 2006

Independent Claim 39 relates to a method of anchoring a suture used in a surgical procedure to a coiled helical member. The steps include supporting the helical member relative to a winding tube and moving the winding tube relative to the helical member such that the suture is **wound** about the helical member **in a helical path** so as to attach the suture to at least one turn of the helical member. In such circumstances, independent Claim 39 is also patentably distinguishable over the references cited in the Office Action for at least the reasons discussed above.

For the sake of good order, applicants' attorney notes that the submittal of this Amendment should not be construed as an admission that the Biggs et al. reference constitutes statutory prior art with respect to the present invention. More particularly, applicants' attorney notes that the Biggs et al. reference did not issue more than one year before the filing date of the present application and, as a result, it does not constitute statutory prior art under 35 USC 102(b).

In view of the foregoing amendments and remarks, applicants' attorney respectfully requests reexamination and allowance of Claims 1-41. If such action cannot be taken, the Examiner is cordially invited to place a telephone call to applicants' attorney in order that any outstanding issue may be resolved without the issuance of a further Office Action.

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No fees are believed to be due in connection with the submission of this Amendment. If there are any fees due as a result of this Amendment, including extension and petition fees, the Examiner is hereby authorized to charge them to Deposit Account No. 503571.

Respectfully Submitted,

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